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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85315; File No. SR-ISE-2019-06]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Delay for Re-Introduction of Legging Functionality for Stock-Option Orders

March 14, 2019

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 11, 2019, Nasdaq ISE, LLC (“ISE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the delay for re-introduction of legging functionality for Stock-Option Orders.

The text of the proposed rule change is available on the Exchange’s Website at <http://ise.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has filed a proposal requesting the removal of the legging functionality for Stock-Option Orders.³ At this time, the Exchange proposes to further extend the delay for re-introduction of legging functionality for Stock-Option Orders until the earlier of the implementation of SR-ISE-2019-05 or May 1, 2019. This extension is solely intended to provide time for SR-ISE-2019-05 to become operative.

In 2017, ISE underwent a replatform to move its functionality to INET.⁴ At that time, ISE proposed to delay the re-introduction of legging functionality for Stock-Option Orders for one year from the date of filing.⁵ Subsequently, ISE filed to delay the re-introduction of legging functionality until March 21, 2019.⁶ The Exchange provided notice to Members on two occasions⁷ with respect to delaying the reintroduction of the legging functionality for Stock-

³ SR-ISE-2019-05. The legging functionality allows Members to leg into the regular market where they may trade against bids and offers for the individual legs pursuant to Rule 722(d)(2) and (3) and Supplementary Material .01 and .02 to Rule 722 ("legging"). The legging functionality will continue to be available for complex options orders. See Rule 722(c)(2).

⁴ INET is the proprietary core technology utilized across Nasdaq's global markets. The migration of ISE to the Nasdaq INET architecture has resulted in higher performance, scalability, and more robust architecture.

⁵ See Securities Exchange Act Release No. 80316 (March 27, 2017) 82 FR 16084 (March 31, 2017) (SR-ISE-2017-28).

⁶ See Securities Exchange Act Release No. 82961 (March 28, 2018), 83 FR 14302 (April 3, 2018) (SR-ISE-2018-21).

⁷ See Options Traders Alerts 2016-8 and 2016-10 (these prior option trade alerts are no longer publically available because the content is obsolete. The alerts were also superseded by Options Trader Alert 2019-3).

Option Orders. In addition, the Exchange has notified Members that it will not offer this functionality going forward.⁸

Today, because of the delay in reintroducing legging functionality, Stock-Option Orders entered on ISE are not automatically executed against bids and offers on the Exchange for the individual legs pursuant to Rule 722(b)(3)(ii)-(iii) and Supplementary Material .02 to Rule 722. Stock-Option Orders continue to execute against other Stock-Option Orders in the complex order book, thereby providing an opportunity for Members to have their Stock-Option Orders executed on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it would provide additional time for ISE's proposal to eliminate the legging functionality for Stock-Option Orders to become operative.¹¹ The Exchange has notified Members that it will not offer this functionality going forward.¹² Members can continue to submit these orders to the Exchange where they can be executed against other Stock-Option Orders on the complex order

⁸ See Options Trader Alert 2019-3.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ SR-ISE-2019-05.

¹² See Options Trader Alert 2019-3.

book. No Members have notified the Exchange of any impact on execution quality as a result of the delayed implementation of legging functionality for Stock-Option Orders, and therefore the Exchange does not believe that extending the delay will have a significant impact on market participants. The Exchange proposes to extend the delay for re-introduction of legging functionality for Stock-Option Orders until the earlier of the implementation of SR-ISE-2019-05 or May 1, 2019.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe that the proposed delay will impose any significant burden on intra-market competition because legging for Stock-Option Orders will be uniformly delayed for all Members. Similarly, the Exchange does not believe that the proposed delay will impose any significant burden on inter-market competition as it does not impact the ability of other markets to offer or not offer competing functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁵

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to extend the delay for re-introducing the legging functionality for Stock-Option Orders until the earlier of the implementation of SR-ISE-2019-05 or May 1, 2019. ISE notes that without a waiver of the operative delay, ISE would be required to re-introduce the legging functionality for Stock-Option Orders until SR-ISE-2019-05 becomes operative. The Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest because it will eliminate the need for ISE to re-introduce the legging functionality for Stock-Option Orders until SR-ISE-2019-05, which eliminates the legging functionality for Stock-Option Orders, becomes operative. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹⁸

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

¹⁵ In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2019-06 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2019-06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those

¹⁹ 15 U.S.C. 78s(b)(2)(B).

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2019-06, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman,
Deputy Secretary.

²⁰ 17 CFR 200.30-3(a)(12).

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